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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,568	07/02/2003	Alfred Alexander Taylor	086345-000000US	2937

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EXAMINER

SIPOS, JOHN

ART UNIT	PAPER NUMBER
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3721

MAIL DATE	DELIVERY MODE
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05/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/613,568

Applicant(s)

TAYLOR ET AL.

Examiner

John Sipos

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 8-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date See Continuation Sheet.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :4/2/04;10/11,10/24,11/4/05;9/14/06.

ELECTION

Applicant's election with traverse of Group I, claims 1-7, in the reply filed on April 9, 2007 is acknowledged. The traversal is on the ground that the limitation "providing a plurality of sealingly closed bags, the bags being joined by end seal areas" renders the apparatus and method non-restrictable, as the bags can not be sealed by hand, nor can the end seal areas be made by hand. This is not found persuasive because the method claims do not delimit the sealingly closed bags and end seal areas to those that are not provided and sealed by hand, and accordingly the method claims are in no way limited to bags and end seal areas made by the disclosed apparatus. It should also be noted that the process of Group II can be performed by a process other than the one recited in the claims of Group I. For example, the method could be performed by a sealing jaw and a cutting mechanism that are not in a single unit but rather are separate mechanisms.

The requirement is still deemed proper and is therefore made FINAL.

REJECTIONS OF CLAIMS BASED ON FORMAL MATTERS

The following is a quotation of the second paragraph of 35 U.S.C. ' 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under **35 U.S.C. ' 112, second paragraph**, as being **indefinite** for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The dependencies of claims 6 and 7 should be corrected by deleting "any one of" in lines 1 of these claims. Also, the last two lines of claim 7 should be cancelled or should be made part of the previous sentence of the claim.

REJECTIONS OF CLAIMS BASED ON PRIOR ART

The following is a quotation of the appropriate paragraphs of 35 U.S.C. ' 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims ~ are rejected under **35 U.S.C. ' 102(b)** as being anticipated by the patent to ~

The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3 and 6 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Gur (5,433,060). The patent to Gur shows an apparatus for attaching bags to a flexible strip comprising of a jaw assembly 50 made up of two jaws 52,53 and a slot for the passing the strip which jaws secures the bags to the strip, a strip delivery mechanism 14+, a drive assembly to cause the movement of the jaws and a blade in groove 58 of the sealing jaw to cut the bags and the strip. Regarding the preamble of the claim that the "bags are delivered to the machine in

an attached configuration” has little bearing on the structure of the claimed apparatus and it is merely an intended use of the machine.

Claims 2 and 4 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Gur (5,433,060). The use of movable cutters in sealing jaws and crank mechanisms to create the reciprocating motion of the cutters are well known in the art and the Examiner takes official notice that their use is common knowledge in the packaging art. In the above cases the modification of the Gur operation would have been obvious to one skilled in the art for the known benefits of each modification. For example, providing a cutter with a crank mechanism would provide positive control over the blade during the sealing operation.

Claim 7 is rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Gur (5,433,060) and further in view of Pike (3,608,709) or Buckner (4,493,178). The patent to Gur lacks an upstream sealing jaws that form the end seals of the bags but rather it simultaneously seals the bags to form the end seals, cuts the bags apart and seals the bags to the flexible strip. The patents to pike and Buckner show the forming of sets of bags where in a sealing jaw forms the end seals of the bags but does not cut the bags apart and thereby form a plurality of connected bags. It would have been obvious to one skilled in the art to separate the end seal forming step from the cutting step of Gur as taught by Pike or Buckner so that a plurality of connected bags are formed.

ADDITIONAL REFERENCES CITED

The following prior art is made of record but has not been relied upon in the rejection of claims. However, the prior art is considered pertinent to applicant's disclosure.

The patents to Kubo, Belt, Yamamoto, Perea and Junker show the sealing of bags to a flexible strip.

The patents to Fuss and Giacomani show the formations of sets of bags with end seals and perforations in between.

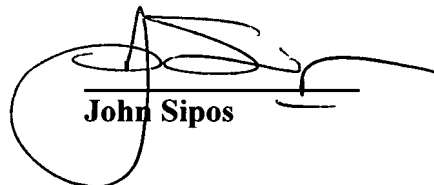
The patent to Lemke shows a sealing jaw with an movable knife.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **571-272-4468**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at **571-272-4467**.

The **FAX** number for U.S. Patent and Trademark Office is **(571) 273-8300**.



John Sipos